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Docket No.: 4703/1F214US1



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PATENT TRADEMARK OFFICE

SEARCH AND EXAMINATION IN THE UNITED STATES PATENT AND TRADEMARK OFFICE, WASHINGTON, D.C.

In re Application of Misunori Iwamoto and Sang-Kee Jung

Serial No.: 09/912,176

Group Art Unit: 1637

Confirmation No.: 5928

Filed: July 24, 2001

Examiner: Young J. Kim

For: NOVEL PROTEIN, ITS GENE, REAGENTS FOR INDUCING APOPTOSIS AND ANTICANCER AGENTS

**STATEMENT REGARDING MICROORGANISM DEPOSITS IN ACCORDANCE
WITH 37 CFR §§1.801-1.809**

Hon. Commissioner of Patents and Trademarks
Washington, DC 20231

I, S. Peter Ludwig, do hereby declare and state as follows:

1. I am an attorney of record in the above-captioned patent application.
2. On information and belief monoclonal antibody I38A was deposited on March 13, 1997 at the National Institute of Bioscience and Human-Technology, Agency of Industrial

Science and Technology¹, whose address is 1-3, Higashi 1 chome, Tsukuba-shi, Ibaraki-ken, 305 Japan. This deposit received the Deposit Accession Number **FERM BP-5872**. A true copy of the original Japanese-language deposit receipt for this micro-organism deposit is provided here, at Exhibit Tab A, along with a certified English translation of that receipt.

3. On information and belief monoclonal antibody I32D was deposited on March 13, 1997 at the National Institute of Bioscience and Human-Technology, Agency of Industrial Science and Technology, whose address is 1-3, Higashi 1 chome, Tsukuba-shi, Ibaraki-ken, 305 Japan. This deposit received the Deposit Accession Number **FERM BP-5873**. A true copy of the original Japanese-language deposit receipt for this micro-organism deposit is provided here, at Exhibit Tab B, along with a certified English translation of that receipt.

4. On information and belief monoclonal antibody I310H was deposited on March 13, 1997 at the National Institute of Bioscience and Human-Technology, Agency of Industrial Science and Technology, whose address is 1-3, Higashi 1 chome, Tsukuba-shi, Ibaraki-ken, 305 Japan. This deposit received the Deposit Accession Number **FERM BP-5874**. A true copy of the original Japanese-language deposit receipt for this micro-organism deposit is provided here, at Exhibit Tab C, along with a certified English translation of that receipt.

5. On information and belief, each of the micro-organism deposits described in paragraphs 2-4, supra, have been accepted for deposit under the terms of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the purposes of Patent Procedure, as evidenced by the Deposit Receipts provided at Exhibit Tabs A-C.

6. On information and belief, access to each of the microorganism deposits, FERM BP-5872, FERM BP-5873 and FERM BP-5874 will be afforded during the pendency of this application to the Commissioner of Patent and Trademarks, or to one determined by the Commissioner to be entitled thereto under 37 CFR § 1.114 and 35 USC § 122.

¹ On April 1, 2001, this depository changed its name to International Patent Organism Depository of National Institute of Advanced Industrial Science and Technology.

7. On information and belief, each of the microorganism deposits FERM BP-5872, FERM BP-5873 and FERM BP-5874 will be released to the public irrevocably and without restriction upon the grant of a United States patent on this application.

8. On information and belief, the Microorganism deposits FERM BP-5872, FERM BP-5873 and FERM BP-5874 will be maintained at the above-mentioned public depository for a period that is at least: (a) 30 years from the date of deposit, (b) the enforceable life of any patent issuing from this application, or (c) a period of five years after the date of the most recent request for furnishing a sample of biological material, whichever is longest.

9. On information and belief, should any of the microorganism deposits FERM BP-5872, FERM BP-5873 or FERM BP-5874 become either nonviable or nonreplicable, they shall be replaced.

Respectfully submitted,

Dated: 3/27/03



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